

Order 2004-4-8
Served: April 9, 2004



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the 6th day of April, 2004

Essential air service at

**BROOKINGS, SOUTH DAKOTA
HURON, SOUTH DAKOTA
PIERRE, SOUTH DAKOTA**

**Dockets OST-1997-2785
OST-2000-7138
OST-2001-10128**

under 49 U.S.C. 41731 *et seq.*

ORDER REQUESTING PROPOSALS

Summary

By this order, the Department is requesting proposals from carriers interested in providing essential air service (EAS) at Brookings, Huron and/or Pierre, South Dakota, for a two-year period, with or without subsidy.

Background

Brookings and Huron

By Order 2003-6-28, June 19, 2003, the Department set a final rate of \$1,911,452 for Great Lakes Aviation, Ltd., for the provision of essential air service at Brookings and Huron, for the period beginning January 1, 2003, until further Department notice. Great Lakes' service consists of 12 round trips per week to Minneapolis/St. Paul routed Huron-Brookings-Minneapolis, with 19-seat Beech 1900D aircraft. That order also tentatively terminated the subsidy eligibility of Brookings because the subsidy per passenger exceeded the \$200 per passenger statutory ceiling, and the community was closer than 210 highway miles from Minneapolis/St. Paul, a large hub.¹ The community objected to the Department's tentative finding, however, and the tentative decision to terminate the community's subsidy eligibility was not made final. Great Lakes' combined subsidy rate for Brookings and Huron of \$1,911,452 thus remains in effect.

In the meantime, in December 2003, Congress passed, and the President signed into law, Public Law 108-176, the "Vision 100--Century of Aviation Reauthorization Act." Section 409 of that law allows a community to request a review of the Department's action terminating its subsidy eligibility during the previous two years. Section 409(b) states that the Secretary of

¹ Congress first imposed that eligibility standard in fiscal year 1992 appropriations language and repeated it every year through fiscal year 1999. Then, by P.L. 106-69, the Department of Transportation and Related Agencies Appropriations Act, 2000, Congress made it a permanent eligibility standard.

Transportation, in reviewing such action, shall consider “highway mileage” as the highway mileage between an eligible place and the nearest medium or large hub airport of *the most commonly used* route between the EAS community and the hub airport. To identify such route, Section 409 directs the Secretary to (1) consult with the Governor of a State or the Governor’s designee, and (2) consider the certification of the Governor of a State or the Governor’s designee as to the most commonly used route.

In this case, South Dakota Governor M. Michael Rounds has submitted a certification fully describing the most commonly used route from Brookings to the Minneapolis/St. Paul International Airport. The Governor requests that the Department use this routing in making its determination on the Brookings community’s eligibility to receive subsidized essential air service.²

Pierre

By Order 2002-3-32, March 29, 2002, the Department selected Great Lakes to serve Pierre at annual rates of \$677,495 for the period October 10, 2001 – April 30, 2002, and \$318,861 for the period May 1, 2002 – October 31, 2003. Great Lakes’ service consists of 12 nonstop round trips a week to Denver with 19-seat Beech 1900D aircraft. Mesaba Airlines, operating as Northwest Airlink, provides 13 nonstop round trips per week to Minneapolis with 34-seat Saab 340 aircraft.

Decision

Based on the objection submitted by the community, including the certification submitted by the Governor of South Dakota as to the most commonly used route from Brookings to the Minneapolis/St. Paul International Airport, we have decided not to make final our tentative finding in Order 2003-6-28 terminating the subsidy eligibility of Brookings. Using the route certified by the Governor, we have determined that Brookings is more than 210 highway miles from the Minneapolis/St. Paul International Airport. The community, thus, remains eligible to receive subsidized air service under the EAS program.

Request for Proposals

By Order 2003-4-5, April 3, 2003, the Department requested proposals from air carriers interested in providing essential air service at Brookings and Huron. The Department received proposals from Great Lakes Aviation, Mesa Air Group, and Westward Airways.

However, as discussed in detail below, we have recently streamlined our procedures in response to a more competitive essential air service environment, and we find that the Brookings and Huron case merits being processed in one comprehensive case under our new, streamlined carrier selection procedures. In addition, since Great Lakes’s Pierre contract has now expired, we have decided to issue a request for proposals that includes all three South Dakota communities.

Carriers interested in filing proposals, with or without subsidy requests, should file them within 30 days of the date of service of this order. At the end of that period, our staff will docket the proposals, thereby making them public, and direct each carrier to serve a copy of its proposal on the civic parties and other applicants. Shortly afterwards, we will provide a summary of the

² See item #31 in Docket 2785 for Governor Rounds’s certification, including the itinerary.

proposals to the communities and ask them to submit their final comments. We will give full consideration to all proposals that are timely filed.³

New Procedures

In the past, we have accepted *initial* carrier proposals, reviewed them, and then negotiated *final* proposals with each applicant before formally presenting the proposals to the communities and asking for their final comments. We found that a two-step process was generally necessary because, in most cases, the incumbent carrier was the only one interested. As a result, we were unable to rely on competition to discipline carrier subsidy requests, and communities had to wait on a protracted selection process. More recently, however, we have noticed that most orders requesting essential air service proposals have drawn interest from at least two carriers, and sometimes more. Under the circumstances, we expect that competition among multiple carriers will ensure reasonable subsidy requests, obviate the need for rate negotiations, and allow us to streamline the carrier selection process.

Consequently, interested carriers should prepare their proposals with every expectation that their initial proposals will also be their *final* and *only* proposals.⁴ We retain the discretion to further negotiate proposals with carriers when we deem it desirable; in such cases, of course, we will give all applicants the same opportunity. For example, we anticipate that we will continue to negotiate rates in cases where there is only a single interested carrier, as is typically the situation in Alaska. We also retain the discretion to reject outright all unreasonable or unrealistic proposals and resolicit a new round of proposals. However, we anticipate that negotiation or rejection will remain only occasional exceptions to the rule.

We are here providing interested carriers with some basic information to serve as guidance when they prepare their proposals, but we will not prescribe a precise format for their proposals. We expect proposals to adequately describe the service being proposed and the annual amount of subsidy being requested. The applicants can make their own judgments as to the level of detail they wish to present; however, they might want to include proposed schedules as well as supporting data for their subsidy requests, such as projected block hours, revenues and expenses. We strongly encourage clear, well-documented proposals that will facilitate their evaluation by the affected communities and the Department. We do not anticipate any change in our selection criteria, or in the general provisions governing subsidy payments for essential air service.⁵

³ In cases where a carrier proposes to provide essential air service without subsidy and we determine that service can be reliably provided without such compensation, we do not proceed with the carrier-selection case. Instead, we simply rely on that carrier's subsidy-free service as proposed.

⁴ For this reason, we will allow carriers 30 days to submit their proposals, rather than just 20 as in the past. Because the new procedures anticipate that a carrier's first proposal will also be its final proposal, we expect to enforce our filing deadlines more stringently than in the past. Carriers should not expect the Department to accept late filings. The additional 10 days will comfortably accommodate the additional time carriers may find necessary to prepare their proposals.

⁵ In selecting a carrier to provide subsidized essential air service, 49 U.S.C. 41733(c)(1) directs us to consider four factors: (1) service reliability; (2) contractual and marketing arrangements with a larger carrier at the hub; (3) interline arrangements with a larger carrier at the hub; and (4) community views. In addition, we have always given weight to the applicants' relative subsidy requirements.

With respect to the specific South Dakota markets at issue here, we expect proposals consisting of service, at a minimum, with two-pilot, twin-engine aircraft with at least 15 passenger seats, and offering a minimum of two or three round trips a week from the essential air service community to a suitable hub such as Minneapolis, Denver, Omaha or any other hub offering convenient access to the nation's transportation system. Such service is generally consistent with what the communities currently receive. We encourage proposals that meet those requirements in an efficient manner. Carriers are also welcome to propose more than one service option, if they choose; they need not limit themselves to those requirements if they envision other, potentially more attractive service possibilities—different hubs, for example—with subsidy requirements that remain competitive. Finally, while all three communities are guaranteed to receive service with 15-seat or larger aircraft, carriers could offer service with smaller aircraft, and perhaps more frequencies, if the communities were willing to accept that trade-off. We would expect such carriers to work with the communities before submitting such a proposal.

Historical Traffic

Historical traffic for Brookings, Huron and Pierre is detailed in Appendix B. During the year ended September 30, 2003, the most recent 12-month period for which traffic data are available, Brookings averaged 1.9 enplanements a day; Huron averaged 3.1 a day; and Pierre averaged 16.5 a day in the Pierre-Denver market, and 45.5 a day in the Pierre-Minneapolis/St. Paul market.

Other Carrier Requirements

The Department is responsible for implementing various Federal statutes governing lobbying activities, drug-free workplaces, and nondiscrimination.⁶ Consequently, all carriers receiving Federal subsidy for essential air service must certify that they are in compliance with Department regulations regarding drug-free workplaces and nondiscrimination, and those carriers whose subsidies exceed \$100,000 over the life of the rate term must also certify that they are in compliance with the regulations governing lobbying activities. Because the Department is prohibited from paying subsidy to carriers that do not submit these documents, all carriers that plan to submit proposals involving subsidy should be aware that the selected carrier will be expected to complete the required certifications. Interested carriers requiring more detailed information regarding these requirements as well as copies of the certifications should contact the Office of Aviation Analysis at (202) 366-1053.⁷

Community and State Comments

The communities and state are welcome to submit comments on the proposals at any time. As noted earlier, however, we will provide a summary of the proposals to the civic parties and ask them to submit their final comments shortly after the end of the 30-day period for carrier proposals.

⁶ The regulations applicable to these areas are: (1) 49 CFR Part 20 -- New restrictions on lobbying; (2) 49 CFR Part 21 -- Nondiscrimination in federally-assisted programs of the Department of Transportation -- Effectuation of title VI of the Civil Rights Act of 1964; 49 CFR Part 27 -- Nondiscrimination on the basis of disability in programs and activities receiving or benefiting from Federal financial assistance; and 14 CFR Part 382 -- Nondiscrimination on the basis of disability in air travel; and (3) 49 CFR Part 29 -- Government-wide debarment and suspension (non-procurement) and government-wide requirements for drug-free workplace (grants).

⁷ The certifications are also available on the web at <http://ostpxweb.dot.gov/aviation/index.html>.

This order is issued under authority delegated in 49 CFR 1.56a(f).

ACCORDINGLY,

1. We find that, measuring the most commonly used route, Brookings, South Dakota, is more than 210 highway miles from Minneapolis/St. Paul International Airport and remains eligible to receive subsidized air service under the Essential Air Service program. We will vacate our tentative finding in ordering paragraph 1 of Order 2003-6-8 terminating the community's subsidy eligibility;
2. We request that carriers interested in providing essential air service at Brookings, Huron, and/or Pierre, South Dakota, submit their proposals, with or without subsidy requests, no later than 30 days after the date of service of this order. The proposals should be sent to the EAS & Domestic Analysis Division, X-53, Office of Aviation Analysis, Room 6401, Department of Transportation, 400 7th Street S.W., Washington, DC 20590, with the title "Proposal to Provide Essential Air Service at [the community or communities at issue]," with the docket number corresponding to each community as shown on the first page of this order;⁸
3. These dockets will remain open until further order of the Department; and
4. We will serve copies of this order on the mayors and airport managers of Brookings, Huron, and Pierre, South Dakota; the South Dakota Department of Transportation, Great Lakes Aviation, Mesa Air Group, Westward Airways, and the persons listed in Appendix C.

By:

KARAN K. BHATIA
Assistant Secretary for Aviation
and International Affairs

(SEAL)

*An electronic version of this document is available
on the World Wide Web at <http://dms.dot.gov>*

⁸ Questions regarding filings in response to this order may be directed to John McCamant at (202) 366-1060.

AREA MAP



Essential Air Service at Brookings, South Dakota
Historical Origin-Destination Passenger Traffic (both directions) ¹

<u>Four quarters ended</u>	<u>Origin- Destination passengers</u>	<u>Annual Enplanements</u>	<u>Average Enplanements Per service day</u> ²
12/31/1988	4,234	2,167	6.9
12/31/1989	3,790	2,055	6.6
12/31/1990	4,440	2,277	7.3
12/31/1991	1,557	745	2.4
12/31/1992	1,248	606	1.9
12/31/1993	1,969	983	3.1
12/31/1994	3,408	1,711	5.5
12/31/1995	3,711	1,871	6.0
12/31/1996	2,616	1,267	4.0
12/31/1997	1,885	937	3.0
12/31/1998	5,168	2,594	8.3
12/31/1999	3,121	1,524	4.9
12/31/2000	2,508	1,207	3.8
12/31/2001	1,877	911	2.9
12/31/2002	1,840	880	2.8
9/30/2003	1,238	579	1.9

¹ Source: U.S. Department of Transportation, Bureau of Transportation Statistics (BTS), Form 298-C, Schedule T-1, and BTS Form T100.

² Average annual enplanements divided by 313 or 314 (leap years) effective annual service days.

Essential Air Service at Huron, South Dakota
Historical Origin-Destination Passenger Traffic (both directions) ³

<u>Four quarters ended</u>	<u>Origin- Destination passengers</u>	<u>Annual Enplanements</u>	<u>Average Enplanements Per service day</u> ⁴
12/31/1988	6,030	2,751	8.8
12/31/1989	6,972	3,517	11.2
12/31/1990	6,748	3,380	10.8
12/31/1991	3,897	1,940	6.2
12/31/1992	4,531	2,319	7.4
12/31/1993	5,078	2,548	8.1
12/31/1994	8,321	4,152	13.3
12/31/1995	9,584	4,920	15.7
12/31/1996	7,453	3,727	11.9
12/31/1997	6,213	3,107	9.9
12/31/1998	3,819	1,910	6.1
12/31/1999	6,694	3,347	10.7
12/31/2000	6,017	2,932	9.3
12/31/2001	3,014	1,495	4.8
12/31/2002	2,507	1,241	4.0
9/30/2003	1,990	983	3.1

³ Source: U.S. Department of Transportation, Bureau of Transportation Statistics (BTS), Form 298-C, Schedule T-1, and BTS Form T100.

⁴ Average annual enplanements divided by 313 or 314 (leap years) effective annual service days.

Essential Air Service, Pierre, South Dakota
Historical Origin-Destination Passenger Traffic (both directions) ⁵

<u>Pierre – Denver</u>			
Four quarters <u>ended</u>	Origin- Destination <u>passengers</u>	Annual <u>Enplanements</u>	Average Enplanements <u>Per service day</u> ⁶
12/31/1996	12,784	6,474	20.6
12/31/1997	9,584	4,794	15.3
12/31/1998	11,365	5,572	17.8
12/31/1999	14,278	7,065	22.6
12/31/2000	17,129	8,468	27.0
12/31/2001	14,477	7,344	23.5
12/31/2002	11,413	5,737	18.3
9/30/2003	10,273	5,151	16.5

<u>Pierre – Minneapolis/St. Paul</u>			
Four quarters <u>ended</u>	Origin- Destination <u>passengers</u>	Annual <u>Enplanements</u>	Average Enplanements <u>Per service day</u> ⁶
12/31/1996	19,162	9,550	30.4
12/31/1997	23,529	11,573	37.0
12/31/1998	23,178	11,460	36.6
12/31/1999	18,792	9,349	29.9
12/31/2000	15,121	8,357	26.6
12/31/2001	18,389	9,125	29.2
12/31/2002	18,620	9,354	29.9
9/30/2003	28,509	14,228	45.5

⁵ Source: U.S. Department of Transportation, Bureau of Transportation Statistics (BTS), Form 298-C, Schedule T-1, for traffic reported by Mesaba Airlines, GP Express Airlines and Great Lakes Aviation, and BTS Form T100 on-flight market origin-destination passengers reported by Great Lakes Aviation.

⁶ Average annual enplanements divided by 313 or 314 (leap years) effective annual service days.

Service List for the State of South Dakota

Air Casino, Inc.
Air Wisconsin, Inc.
AirVantage, Inc.
Alpine Aviation, Inc.
Amerijet International, Inc.
Bemidji Airlines
Big Sky Transportation Co.
Corporate Air.
Delta Connection
Dwyer Aircraft Sales, Inc.
Falcon Aviation, Inc.
GP Express Airlines, Inc.
Heartland Aviation, Inc.
Imperial International, Inc.
Mesaba Aviation, Inc.
Metroflight, Inc.
Midway Airlines, Inc.
Midwest Aviation
Midwest Express Airlines, Inc.
Northwest Airlink
Renown Aviation, Inc.
Rocky Mountain Airways, Inc.
Thunderbird Aviation, Inc.

Ken Bannon.
Brad Elstad
E.B. Freeman
Douglas Gumula
Ben Harrison
A. Edward Jenner
Bob Karns
John McFarlane
Gary L. White